

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Alender Simmons,) C.A. No. 6:07-184-HMH
Plaintiff,)
vs.)
J.C. Penney Corporation, Inc., and)
Simon Haywood, LLC,)
Defendants.)

OPINION & ORDER

This matter is before the court on Alender Simmons' ("Simmons") motion to remand. On January 19, 2007, J.C. Penney Corporation, Inc. ("J.C. Penney") removed this action to federal court on the basis of diversity jurisdiction and filed an answer. On January 22, 2007, the court granted Simmons' consent motion to amend to add Simon Haywood, LLC ("Simon Haywood") as a defendant in this action. Simmons filed a motion to remand this case to state court on January 26, 2007, alleging that the requirements of diversity jurisdiction have not been satisfied because Simon Haywood's principal place of business lies in Greenville, South Carolina.

The citizenship of an LLC is the citizenship of its members. See Gen. Tech.
Applications, Inc. v. Exro Ltda, 388 F.3d 114, 120 (4th Cir. 2004). J.C. Penney submitted
the affidavit of Mark Payne (“Payne”), in-house counsel for Simon Property Group, Inc.
 (“Simon, Inc.”), stating that Simon Haywood is a Delaware limited liability company.
(Def.’s Mem. Opp’n Mot. Remand Ex. 1 (Payne Aff. ¶¶ 2-3).) Further, Payne stated that
Simon Haywood’s sole member is Simon Property Group, L.P. (“Simon L.P.”), which is a

"limited partnership formed and existing under the laws of the state of Delaware." (Id.) Simon L.P. is a subsidiary of Simon, Inc., a Delaware corporation. (Id. Ex. 1 (Payne Aff. ¶¶ 1-2.); see Carden v. Arkoma Assoc., 494 U.S. 185, 195-196 (1990) (holding that for purposes of diversity the citizenship of a non-corporate entity, specifically a limited partnership, is the citizenship of all of its members)).

J.C. Penney is a Delaware corporation with its principal place of business in Texas. (Id. Ex. 2 (Jeffrey Vawrinek Aff. ¶¶ 5-6).) Simmons is a South Carolina resident. (Comp. ¶ 1.) Moreover, Simmons seeks in excess of \$75,000 in damages. (Compl. generally; J.C. Penney's Reply dated February 5, 2007.) Based on the foregoing and a review of the record in this matter, it appears that the requirements of diversity jurisdiction are satisfied. See 28 U.S.C. § 1332.

Therefore, it is

ORDERED that Simmons' motion to remand, docket number 9, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
March 19, 2007